



The State Bar *of California*

OPEN SESSION AGENDA ITEM MARCH 2020 BOARD EXECUTIVE COMMITTEE III.D

DATE: March 12, 2020

TO: Members, Board Executive Committee

FROM: Dag MacLeod, Chief of Mission Advancement & Accountability Division

SUBJECT: Approval of 2020 Work Plans of the California Board of Legal Specialization, Committee of Bar Examiners, and Council on Access and Fairness

EXECUTIVE SUMMARY

This agenda item presents 2020 work plans of the California Board of Legal Specialization, Committee of Bar Examiners, and Council on Access and Fairness for approval by the Board Executive Committee.

BACKGROUND

The Board Executive Committee is responsible for approving work plans adopted by four subentities of the State Bar: the California Board of Legal Specialization (CBLS), Committee of Bar Examiners (CBE), Council on Access and Fairness (COAF), and Legal Services Trust Fund Commission (LSTFC). The timing of LSTFC meetings prevented the Commission from adopting a work plan in time to present it to the Executive Committee at this meeting and will be brought to the Executive Committee for approval in May.

DISCUSSION

Attached to this item are work plans adopted by the CBLS, CBE, and COAF. These subentities developed their work plans for the 2020 Board year to ensure alignment of their activities with the State Bar's strategic plan, and to provide guidance and accountability for subentity members and State Bar staff.

Each work plan provides an overview of the charge of the subentity and then summarizes: specific work that the subentity is undertaking, the Strategic Goal (and where applicable, strategic objective) that the work supports, the deadline by which the work should be completed, and whether the subentity plans to return to either the Board or a Board Committee with a report on the work.

Two issues related to the COAF work plan (Attachment C) need to be highlighted here. The first is a request by COAF to expand the scope of the group's charge. Introduced initially in a letter to Trustees Chen, Delen, and Stallings, the proposed expansion was approved unanimously by the members of COAF and involves extending COAF's work on diversification of the profession to include educational interventions *prior* to law school. While this issue will be taken up by the full Board (See Item 706), the proposed work plan includes two items that appear to anticipate the approval of this expansion of scope, highlighted on Attachment C, page C-3.

The second issue to highlight regarding the proposed COAF work plan involves partnering with the California Lawyers Association, Judicial Council, and California Judges Association on the 2020 Judicial Diversity Summit. This – highlighted in Attachment C, page C-4 – is beyond the scope of the support activities related to judicial diversity approved by the Board in 2019. It appears inconsistent with the Board direction at that time for staff to inquire if the California Lawyers Association would be willing to participate with the Judicial Council and California Judges Association in the judicial diversity summit.

Since the expansion of COAF's scope is the subject of discussion with the full Board later in the agenda, approval of these specific items on the work plan should be held in abeyance until the Board acts on agenda item 706.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES OF THE STATE BAR

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None - core business operations

RECOMMENDATIONS

Should the Board Executive Committee concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board Executive Committee approves the work plans adopted by the California Board of Legal Specialization and Committee of Bar Examiners and authorizes staff to maintain the work plans, and make technical edits and corrections to them as needed; and it is

FURTHER RESOLVED, that the Board Executive Committee approves the work plan adopted the Council on Access and Fairness, with the exceptions described in this agenda item, and authorizes staff to maintain the work plan, and make technical edits and corrections to it as needed.

ATTACHMENT(S) LIST

- A.** Work plan of the California Board of Legal Specialization
- B.** Work plan of the Committee of Bar Examiners
- C.** Work plan of the Council on Access and Fairness
- D.** Letter from the Chair of COAF to Trustees Chen, Delen, and Stallings

The California Board of Legal Specialization (CBLS) is composed of seven members appointed by the Board of Trustees. The charge of the CBLS is as follows:

- Establish a program to encourage attorney competence by certifying as legal specialists attorneys who have demonstrated proficiency in specified areas of law.
- Develop testing and legal education criteria for specialists.
- Recommend program rules and provide policies and guidelines for certification of specialists.
- Recommend approval of additional areas of legal specialization and their related certification standards.
- Recommend other entities to grant certification.

STRATEGIC PLAN GOAL & OBJECTIVE	WORK PLAN	DEADLINE	TO BOARD COMMITTEE (Y/N) / DATE
Goal 1, Objective b: Implement and pursue governance, composition, and operations reforms needed to ensure that the Board's structure and processes optimally align with the State Bar's public protection mission.	Create Legal Specialization Working Groups to provide: <ul style="list-style-type: none"> • recommendations to Staff regarding certification and recertification applications; and • the final review of the Legal Specialist Examination. 	Ongoing	Yes
Goal 1, Successfully transition to the "new State Bar"-an agency focused on public protection, regulating the legal profession, and promoting access to justice. Goal 4, Objective b: Study and implement improved programmatic approaches to increasing access to justice.	Re-examine guidelines applied when evaluating proposals for expanding certification areas, outside of the State Bar's current offerings, with a focus on public protection, regulating the legal profession and promoting access to justice.	Ongoing	No

STRATEGIC PLAN GOAL & OBJECTIVE	WORK PLAN	DEADLINE	TO BOARD COMMITTEE (Y/N) / DATE
Goal 4, Objective i: No later than December 31, 2019, identify ways that diversity and inclusion principles can be institutionalized in Bar exam development and grading analyses and implement these practices no later than December 31, 2020.	<p>Work with Psychometrician in reviewing data from grading pilot program, and providing analyses to assist in development of future grading processes.</p> <p>Procure examination item banking solution to increase the security and efficiency of Legal Specialist Examination development.</p>	Ongoing	Yes
Goal 1, Objective b: Implement and pursue governance, composition, and operations reforms needed to ensure that the Board's structure and processes optimally align with the State Bar's public protection mission.	Create procedure to ensure that specialists who no longer hold certification have removed the designation from their materials.	Ongoing	No

Attachment B

The Committee of Bar Examiners (CBE) is composed of 19 members appointed by the California Supreme Court, the Governor, the Chair of the California State Senate Committee on Rules, and the California State Speaker of the Assembly. The charge of the Committee is as follows:

- Examine all applicants for admission to practice law;
- Administer the requirements for admission to practice law;
- Certify those applicants who fulfill the requirements to the Supreme Court for admission;
- Inherent in the administration of the requirements of admission;
- Determine the pre-legal and legal education eligibility of applicants;
- Determine whether an applicant possesses the requisite good moral character to practice law;
- Accredite law schools and register unaccredited and correspondence law schools, in accordance with the State Bar Rules, in California. (Bus. & Prof. Code § 6046 *et seq.*; California Rules of Court 9.4; State Bar Rules, Title 4)

STRATEGIC PLAN GOAL & OBJECTIVE	WORK PLAN	DEADLINE	TO BOARD COMMITTEE (Y/N) / DATE
Goal 2, objective I: For greater transparency, accountability, efficiency, and access, develop and deploy a new case management system for the Office of Admissions by June 30, 2019.	<ul style="list-style-type: none"> • Analysis and Report prepared by the Committee's psychometrician on the impact of the modified (2-Day) California Bar Examination, after the February 2019 CBX to determine whether there are any problems or disparities. • Consider report prepared by the State Bar's Office of Finance on the financial and budgetary impacts of the transition to the modified (2-Day) California Bar Examination. • Upon implementation of revised accreditation rules, evaluate feasibility of integrating Educational Standards into AIMS 	<p>Done; reviewed by CBE at December 2019 meeting</p> <p>April 2020</p> <p>December 2020</p>	BOT May 2020

STRATEGIC PLAN GOAL & OBJECTIVE	WORK PLAN	DEADLINE	TO BOARD COMMITTEE (Y/N) / DATE
Goal 2, objective m: After the results of the February 2019 Bar Exam are published, evaluate the results of the two-day exam on pass rates and costs.	<ul style="list-style-type: none"> Consider report prepared by the State Bar's Office of Finance on the financial and budgetary impacts of the transition to the modified (2-Day) California Bar Examination. 	To be presented to CBE at April 2020 meeting	No
Goal 2, objective n: No later than December 2019, conduct a California specific job analysis to determine the knowledge, skills, and abilities for entry level attorneys. Upon completion, conduct a new content validation study.	<ul style="list-style-type: none"> CAPA study to be finalized after NCBE has completed its job analysis (expected in February 2020) CBE to review and consider final report prepared for the California Attorney Practice Analysis (CAPA) Conduct new content validation study 	TBD TBD TBD	No
Goal 4, objective b: Study and implement improved programmatic approaches to increasing access to justice.	Educational Standards: <ul style="list-style-type: none"> Recommend Revised Rules to accomplish the State Bar's new purpose for accreditation Create deemed accredited status for qualifying regionally accredited schools Committee of State Bar Accredited and Registered Schools (CSBARS): <ul style="list-style-type: none"> Recommend Revised Rules to accomplish the State Bar's new purpose for accreditation Includes creation of deemed accredited status for qualifying regionally accredited schools 	Present CSBARS recommendation to CBE April 2020 Present CSBARS recommendation to CBE April 2020	If approved by CBE, present to BOT in May 2020 If approved by CBE, present to BOT in May 2020

STRATEGIC PLAN GOAL & OBJECTIVE	WORK PLAN	DEADLINE	TO BOARD COMMITTEE (Y/N) / DATE
Goal 4, objective g: Work with the California Accredited Law Schools and registered schools to develop enhanced demographic reporting requirements by February 28, 2020.	<p>Educational Standards:</p> <ul style="list-style-type: none"> • After studying available data, finalize plan to collect additional relevant data beginning in 2020 • Collect data along with the 2020 Annual Report <p>Committee of State Bar Accredited and Registered Schools (CSBARS):</p> <ul style="list-style-type: none"> • Provide feedback to State Bar to ensure effective rollout of enhanced demographic reporting requirements 	<p>February 2020</p> <p>November 2020</p> <p>February 2020</p>	
Goal 4, objective h: Identify means of supporting existing law school programs to improve retention by December 31, 2020.	<p>Educational Standards:</p> <ul style="list-style-type: none"> • Use expanded demographic data in support of development of A&I initiatives to develop programs to improve retention • Engage CSBARS and Law School Council to assist with feedback on this goal <p>Committee of State Bar Accredited and Registered Schools (CSBARS):</p> <ul style="list-style-type: none"> • Use expanded demographic data to support A&I initiatives to improve law student retention • Provide feedback on State Bar proposals to improve retention as available 	<p>December 2020</p> <p>Ongoing</p> <p>December 2020</p>	

STRATEGIC PLAN GOAL & OBJECTIVE	WORK PLAN	DEADLINE	TO BOARD COMMITTEE (Y/N) / DATE
Goal 4, objective j: Assuming positive results from the Productive Mindset Intervention, expand implementation by February 2020 (Date updated).	Educational Standards: <ul style="list-style-type: none"> Engage with CSBARS/LSC/Law School Assembly to assist with expanded implementation Engage CSBARS and Law School Council to assist with feedback on this goal Committee of State Bar Accredited and Registered Schools (CSBARS): <ul style="list-style-type: none"> Assist State Bar to developing effective methods to expand implementation of State Bar Stories and Strategies, assuming positive results 	Fall 2020 December 2020	
Goal 5, objective d: Improve transparency. Accountability, accessibility, and governance by increasing the availability of meeting materials and public access to meetings and records and reporting these efforts to stakeholders and the general public.	<ul style="list-style-type: none"> Moral Character Working Group (MCWG) meeting agendas are posted at least 10 days in advance MCWG meetings are webcasted and open to the public MCWG meeting materials are remediated and posted to the State Bar's website Complete the production for the Admissions training videos on the following topics: an on-line video on "preparing to take the Bar Exam" for applicants and proctor training videos. Conduct Implicit Bias training for Admissions staff and for proctors that work the examinations. Committee of State Bar Accredited and Registered Schools (CSBARS): <ul style="list-style-type: none"> Enhance Annual Report to improve ability to share and analyze aggregate law school data Suggest topics for Law School Assembly and Law School Deans' e-Newsletter 	January 2020 February 2020 Spring 2020 May 2020 August 2020 Ongoing	Final Work Product to: CBE April 2020 BOT May 2020, if approved by CBE

Charge: The Council on Access & Fairness is composed of ten members appointed by the Board of Trustees. The charge of the Council is as follows:

- Assist and advise the Board of Trustees in defining and advancing the State Bar's diversity and inclusion strategies and goals.
- Study, recommend, and help devise curricula designed to educate California attorneys on diversity and inclusion principles.
- Promote programs and strategies to improve diversity initiatives impacting the pipeline, particularly at California law schools, for the bar exam and within the legal profession.
- Evaluate the state of diversity and inclusion in the profession annually.
- Identify barriers to entry into, and retention and advancement in the legal profession, and propose solutions to address barriers.
- Explore, promote, encourage, and partner in collaborative efforts to increase diversity and inclusion in the profession and in the judiciary.
- Comment and advise, when requested by the Board of Trustees or the Executive Director, on barriers directly related to access opportunities within the profession for attorneys from diverse backgrounds.
- Serve as a representative of the State Bar, as requested by the Board of Trustees, on issues of diversity and inclusion.

STRATEGIC PLAN GOAL & OBJECTIVE	WORK PLAN	DEADLINE	TO BOARD COMMITTEE (Y/N) / DATE
Goal 4, objective h: Identify means of supporting existing law school programs to improve retention by December 31, 2020.	<ul style="list-style-type: none"> • Review and identify promising programs. • Recommend effective programs for broad implementation. • Participate in the Law School Assembly • Review data provided by the CALS and registered law schools in Fall 2020 to determine next steps based on attrition data reported. • Track law school attrition data for California ABA schools to identify trends • Develop a Best Practices Guide or resource and distribute and promote the guide or resource to the public. 	12/31/2020 12/31/2020 May 2020 January 2021 Ongoing December 2021	No

STRATEGIC PLAN GOAL & OBJECTIVE	WORK PLAN	DEADLINE	TO BOARD COMMITTEE (Y/N) / DATE
Goal 4, objective i: No later than March 31, 2020, identify ways that diversity and inclusion principles can be institutionalized in Bar exam development and grading analyses and implement these practices no later than December 31, 2020.	<ul style="list-style-type: none"> • Recommend/develop State Bar rule to codify diversity and inclusion principles in bar exam development. • Examine previous bar exam questions analyses that had identified differences in performance and develop relevant procedures for exam development. • Work with the Office of Admissions to broaden education and outreach to the legal community, including affinity bar associations, as appropriate to widen recruitment of graders and pre-testers. • Recommend the State Bar require implicit bias training to State Bar admissions staff, proctors, graders, and EDG team and monitor progress. 	12/31/2020 12/31/2020 Ongoing 03/20/2020	Yes / Early 2021
Goal 4, objective j: Assuming positive results from the California Bar Exam Strategies and Stories Program (formerly called Productive Mindset Intervention,) expand implementation by February 2020.	<ul style="list-style-type: none"> • Review researcher's summary of findings from July 2018 and July 2019 intervention and study. • Invite researchers to present to COAF findings from 2018 and 2019 study to better understand research. • Develop communications strategy to outreach to law students and bar applicants to participate in intervention. 	5/29/2020 or 8/28/2020 5/29/2020 or 8/28/2020 Ongoing	No

STRATEGIC PLAN GOAL & OBJECTIVE	WORK PLAN	DEADLINE	TO BOARD COMMITTEE (Y/N) / DATE
Goal 4, objective I: No later than December 31, 2019, analyze available data to identify the particular obstacles to diverse attorneys' entry into, retention, and advancement in the legal profession.	<ul style="list-style-type: none"> • Make recommendations for actions the State Bar can take to address issues identified in the findings 	12/31/2019	Yes
	<ul style="list-style-type: none"> • Identify diversity and inclusion programs at law firms and government agencies; develop and disseminate best practices 	12/31/2019	No
	<ul style="list-style-type: none"> • Plan and participate in Diversity Summits by sector (private, government, and nonprofit) 	12/31/2020	No
	<ul style="list-style-type: none"> • Identify issues in the development of the pipeline to the profession and make recommendations on how to address pipeline to the profession issues 	12/31/2020	No
	<ul style="list-style-type: none"> • Provide input and feedback on the State Bar efforts to ensure an effective and fair attorney discipline system 	Ongoing	No
	<ul style="list-style-type: none"> • Provide input and feedback on loan repayment assistance programs 	Ongoing	No
	<ul style="list-style-type: none"> • Develop and engage in communications and marketing strategy to highlight diverse legal professionals in non-traditional legal roles 	Ongoing	No

STRATEGIC PLAN GOAL & OBJECTIVE	WORK PLAN	DEADLINE	TO BOARD COMMITTEE (Y/N) / DATE
Goal 4, objective m: By December 31, 2020, modify the Elimination of Bias curriculum contained in the Minimum Continuing Legal Education requirements to consider the creation of sub-topics, and expanding the number of required hours.	<ul style="list-style-type: none"> Request that the BOT release the proposed rules for public comment After public comment period for proposed rules, review comments and provide feedback if necessary. Research and invite experts on bias to propose a curriculum for the one-hour online training for delivery on the State Bar e-learning portal; assist in the development of the training Formulate and recommend some learning outcomes for the online implicit bias course. 	3/30/2020	Yes / March 2020
		8/30/2020	
		8/30/2020	No
		12/31/2020	No
Goal 4, objective n: Develop and publish an annual report card on the state of the profession by January 31, 2020, and annually thereafter.	<ul style="list-style-type: none"> Develop communications and outreach strategy for diversity and inclusion report card. 	06/2019	No
Goal 4, objective o: Partner with the Judicial Council to complete the Judicial Diversity Toolkit.	<ul style="list-style-type: none"> Provide assistance and support to the Judicial Council in implementing judicial diversity efforts. Support Judicial Council in conducting regional workshops / summits / meetings for attorneys interested in exploring judicial positions and assist the Judicial Council in delivering such programs Finalize 2016 Judicial Diversity Summit Report Partner with California Lawyers Association, Judicial Council, and California Judges Association on 2021 Judicial Diversity Summit 	Ongoing	No
		Ongoing	
		5/2020	
		12/31/2021	
General	<ul style="list-style-type: none"> Training for COAF members on Proposition 209 	5/29/2020	

November 7, 2019

Sonia Delen, Programs Liaison
Brandon Stallings, Programs Liaison
Hailyn Chen, Diversity Liaison
The State Bar of California
Board of Trustees

Re: Expansion of COAF's Mission Statement

Dear Sonia, Brandon, and Hailyn:

The Council on Access and Fairness (COAF) is honored that the State Bar Board of Trustees (BOT) has entrusted to COAF a major role in carrying out diversity and inclusion initiatives in the BOT's Strategic Plan. Currently, COAF's initiatives focus on the portion of the pipeline to the profession that begins at the law school level. COAF is concerned that this limitation hampers realization of the goal of diversifying the profession because it misses important opportunities to encourage and support underrepresented high school and college students who may be interested in entering the legal profession.

At its September 25, 2019 meeting, COAF unanimously passed a motion to recommend that the BOT amend COAF's mission statement in the following respects: (1) To include advancement of programs and initiatives at both the high school and college levels; (2) To permit COAF to engage with and support California LAW efforts; (3) To permit COAF to appoint a COAF member to serve as liaison to California LAW; (4) To permit COAF to serve as a resource for Law Partnership Academies' Advisory Council volunteers; and (5) To permit COAF to organize presentations to underrepresented high school and college students on the path to becoming an attorney.

COAF members are eager to support this expanded mission. We hope you will favorably consider our request, and look forward to further discussions with the BOT.

Sincerely,

Hon. Brenda Harbin-Forte
COAF Chair